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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,874	08/26/2002	Kevin Joseph Wensel	24NS121067	61/4

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EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/064,874

Applicant(s)

WENSEL ET AL.

Examiner

James F. Hook

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-15 and 23-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16, 17, 22, 28, 29 and 34 is/are rejected.
- 7) ☒ Claim(s) 18-21 and 30-33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 148 is missing from the figures. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Election/Restrictions

Applicant's election with traverse of Group I and the species of figure 12 in the reply filed on May 10, 2004 is acknowledged. The traversal is on the ground(s) that the groups are not separable and that there is no burden to consider two species, or that the two species are related. This is not found persuasive because the limitations of each group are not the same as the limitations of the other group with respect to groups I and II, with respect to I and III or II and III, the method of group III does not have the same limitations of that set forth in group I or in group II taken separately, and since each were shown to have other uses such is deemed proper. However, in light of the

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election of species 12, it is also noted that the claims of groups II and III do not coincide with the structure set forth in figure 12, and therefore such would be drawn to a non-elected species also. With respect to the species requirement, clearly the sleeve element of figure 12 is not close to the structure set forth in figure 2, where the sleeve of figure 12 has two shells that are elongated and provided around a pipe to cover an entire surface of the pipe whereas the structure of the embodiment of figure 2 only plugs a small aperture, where this type of embodiment would have to be searched as a plug and would include subclasses not required to search the sleeve embodiment of figure 12.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 17, 22, 28, 29, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guyatt in view of Timmons and Morris. The patent to Guyatt discloses the recited seal clamp comprising a first half shell 14, a second half shell 16, both forming semi cylindrical bodies with concave inner surfaces and convex exterior surfaces, a plurality of engagement tabs 54 forming U shaped slots, a plurality of shafts 37,38 which can pivot and are provided with disc structures 58,60 at the ends to engage the tabs and hold the sleeves together around a pipe. The patent to Guyatt discloses all

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of the recited structure with the exception of providing a actuating cylinder to pull the halves together to close the sleeve, and providing seals. The patent to Timmons discloses the recited seal clamp comprising cylindrical half shells 10 and 12 which can be provided with seals 36,38 to seal the halves together around pipes to seal them against leaks, where one embodiment is seen to have the same drain structure 50 as Gayett, or can be formed without such structure. It would have been obvious to one skilled in the art to modify the sleeve in Gayett by providing seals along the edges to seal the sleeve against a pipe to prevent leaks as suggested by Timmons. The patent to Morris discloses the recited seal clamp comprising cylindrical half shells 11,12 which can be pulled together around a pipe along a longitudinal break in the sleeve using hydraulic cylinders 60 and that such can be used as an alternative connection. It would have been obvious to one skilled in the art to provide the shafts in Guyatt with actuating cylinders to hold the sleeve halves together as such is an alternate form used as suggested by Morris as such would allow for use in higher pressure situations and allow the user to close the cylinder easier than the manual method needed in Guyatt.

Allowable Subject Matter

Claims 18-21 and 30-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

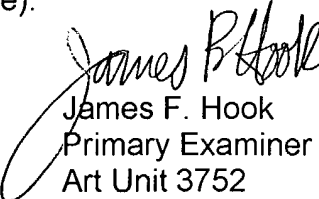
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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to McEwen, Schustack, Anderson, Wells, Blakeley, Blaschke, Rogers, Jr., Robertson, Sanders and Motta disclosing state of the art sleeves.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (703) 308-2913. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James F. Hook
Primary Examiner
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JFH